

REMARKS

Reconsideration of the application is requested.

Claims 22 - 40 are now in the application. Claims 1 - 21 have been canceled. Claims 22 - 40 have been added.

Turning now to the Office action, it is quite unfortunate that the Examiner provided an examination on the merits of the wrong claims. Claims 1-21 were originally filed in the international application. Upon receiving the international search report, applicant adjusted the claims and filed "Replacement Sheets" in the international application with replacement claims 1-17 on Oct. 19, 2000. Upon filing a Demand, the replacement claims 1-17 were subjected to preliminary international examination and they formed the basis for the IPER (International Preliminary Examination Report) dated October 30, 2000.

The replacement claims 1-17 were submitted to the United States Patent Office when the national stage application was filed on January 31, 2001. Claims 1-17 should have formed the basis for the examination before the U.S. Patent Office.

The application before the Patent Office appears to be in disarray. The case had been abandoned because the Office had apparently misplaced and/or mishandled the national stage filing. A decision dated May 12, 2005 granted applicant's petition to withdraw the holding of abandonment. Even though the decision granted the rescission, the file languished further for many months in "abandoned" status. After several more status requests, the Office finally returned the application to pending

status and the above-identified Office action finally issued more than six years after the national phase was entered.

The Examiner's assistance is requested to "clean up" this application file. Applicant is entitled to careful treatment by the Office of all papers submitted and, most importantly, to a properly collected and assembled file. All the necessary papers were submitted with the national stage filing. Should any papers have been lost, counsel would be more than happy to assist in the necessary recreation of the case.

Claims 22-40 are largely based on the replacement claims 1-17. Reviewing the Office action, we learn that many, but not all, elements of the combination and the method were searched and examined. Specifically, the feature concerning the "hot air passing helically from the bottom upward" and the corresponding structure have apparently not been reviewed. This feature, however, lies at the heart of the invention and, accordingly, proper examination on the merits should acknowledge the feature.

This brings us to the rejection of several claims as being anticipated by Flanigan (US 5,783,046) under 35 U.S.C. § 102. We respectfully traverse on the basis of the amended claims.

Flanigan does indeed have a similar oven as is shown by applicant. With reference to claim 22, Flanigan does not teach:

- introducing the receiving device from below . . . and thereby tightly closing . . .
- hot air passing helically through a helical duct.

Flanigan cannot possibly introduce the tray (truck 5) from below, because there are disposed several assemblies at the bottom of the chamber 3, including the heat transfer gas distributor 35a, and the U-shaped heating tubes. Besides, Flanigan introduces the truck 5 by rolling it into the chamber, with the truck supported on the flanged side rails 55a by way of the wheels 56.

Flanigan's heating concept is based on bottom-to-top convection flow. The heat from the heat exchange gas is introduced from below (distributor 35a). Similarly, the pyrolysis heat is introduced from below as well. Here, Flanigan provides for U-shaped heating tubes 41a. There is nothing in Flanigan's disclosure, that would point to a helically rising tube heater.

We have also reviewed the additional references and we have come to the conclusion that the claims are patentable over the art as a whole. None of the references, whether taken alone or in any combination, either show or suggest the features of claim 22. Claim 22 as well as all the other claims are thus patentable over the art.

In view of the foregoing, reconsideration and the allowance of claims 22-40 are solicited.

Should the Examiner disagree applicant and deem the claims not allowable at this point, she is respectfully urged to abstain from issuing a final Office action. Applicant

has not received a proper non-final action on the merits to which he would be entitled.

Petition for a three-month extension is herewith made. The extension fee associated therewith is being submitted herewith. Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to Deposit Account Number 12-1099 of Lerner Greenberg Sterner LLP.

Respectfully submitted,

/Werner H. Sterner/

Werner H. Sterner
(Reg. No. 34,956)

WHS:lq

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Lerner Greenberg Sterner LLP
P.O. Box 2480
Hollywood, Florida 33022-2480
Tel.: 954-925-1100
Fax: 954-925-1101